IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.947 OF 2003

The State of Maharashtra ...Appellant

Versus

Shri.Sanjay Mahadev Bagade ...Respondent

.....

Ms.M.M.Deshmukh, A.P.P. for Appellant.

Mr.Shekhar Ingawale for Respondent.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 21, 2005.

P.C.

1. Heard Counsel for the parties. Perused the evidence.

2. I am in agreement with the finding recorded by the Court below that the proceedings were vitiated for want of valid sanction. Section 79(4) of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 postulates prior approval of the Collector before

removing the employee of the category to which the Respondent belongs. There is nothing on record to suggest that such prior approval has been granted by the Collector. The concerned Chief Officer has not been examined by the prosecution. The other witnesses have deposed that they were not in a position to state whether prior approval was granted or about reasons for not granting such approval by the Collector. If it is so, the conclusion reached by the Court below that for want of valid sanction, the proceedings against the Respondent will have to be held as vitiated, does not require any interference. On this count alone, this appeal should fail. It is not necessary, therefore, to examine other issues. Hence, dismissed.

3. All concerned to act on an ordinary copy of this order, duly authenticated by the Office.

A.M.KHANWILKAR, J.